

REMARKS/ARGUMENTS

A. Status of the Specification

The abstract has been amended to conform with U.S. Patent Office format. Attached as Appendix A is a clean copy of the new abstract. Applicant requests that the objection to the specification be withdrawn.

B. Status of the Claims

Original claims 1-25 were derived from the corresponding PCT Application PCT/FR2005/050232. These claims have been cancelled and replaced with claims 26-62 to better conform with U.S. Patent Office claiming format. Support for the new claims can be found in the original claims as filed and throughout the specification.

Claims 26-62 are pending.

C. Claim Objections and Indefiniteness Rejections

The objections to claims 5-25 and the indefiniteness rejection of claims 1-4 are moot in view of the revised claim set. Applicant requests that these objections and rejection be withdrawn.

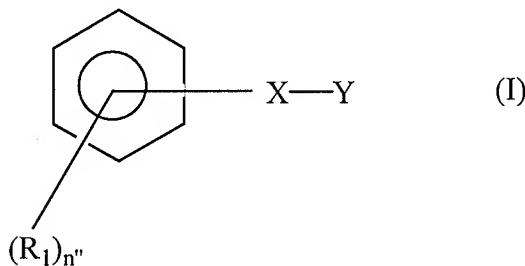
D. The Anticipation Rejection Is Overcome

Original claims 1 and 4 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,413,729 to Gaul *et al.* Given that these claims are cancelled, the anticipation rejection is moot. However, Applicant provides the following comments which confirm that independent claims 26 and 62 are novel over the cited reference.

In order to support an anticipation rejection for claims 26 and 62 in view of Gaul *et al.*, every element of the claims must be “identically shown” in this reference. *See In re Bond*, 910 F.2d 831, 832 (Fed. Cir. 1990) (“For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference.”).

1. Claim 26 Is Novel Over Gaul *et al.*

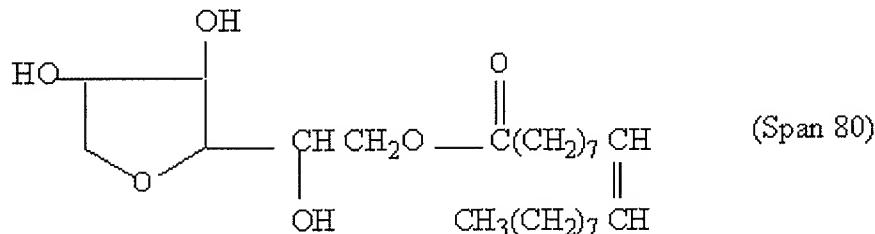
Claim 26 concerns a cleaning solution comprising more than 50% by weight of at least one lactone (component A) and 1 to 10% by weight of at least one surfactant compound (component B) having a HLB ranging from 8 to 15 and selected from the group consisting of compounds of formula:

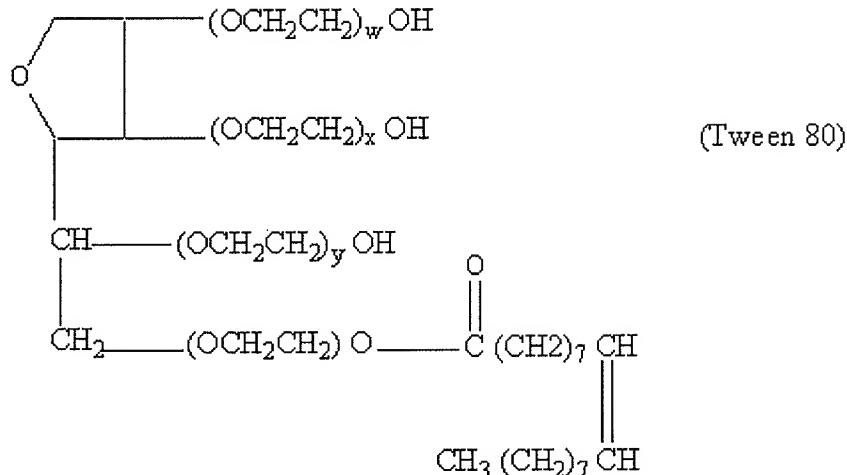


and



By comparison, the two surfactants in Gaul *et al.* cited by the Examiner—"Span 80" (sorbitan monooleate) and "Tween 80" (polyoxyethylene 20 Sorbitan monooleate) correspond to the following formulas (CTFA source):





Component B in Applicant's claim 26 has a different structure than Span 80 and Tween 80. Further, Applicant's component B is not disclosed or suggested in Gaul *et al.* Therefore, Applicant's claimed cleansing solution comprising components A and B are not disclosed in the cited reference.

Additionally, the combined amounts of components A (more than 50% by weight) and B (1 to 10% by weight) in the claimed cleansing solution does not appear to be disclosed or suggested in Gaul *et al.* Indeed, all of the compositions in the Examples of the cited reference have surfactants Tween 80 and Span 80 (when combined) in amounts ranging from 0.20% to 0.25% by weight of the composition (see Tables 1-3 and 6 of Gaul *et al.*).

For at least these reasons, Applicant respectfully submits that Gaul *et al.* fails to disclose every aspect of claim 26. Therefore, claim 26 is not anticipated by the cited reference.

2. Claim 62 Is Novel Over Gaul *et al.*

Claim 62 concerns “[a] cleaning solution consisting of, based on the total weight of the solution: more than 50% by weight of at least one lactone; 1 to 10% by weight of at least one surfactant compound having a HLB ranging from 8 to 15...” (emphasis added). It is well-settled that the transition phrase “consisting of” “excludes any element, step, or ingredient not specified in the claim.” *See MPEP § 2111.03.*

By comparison, the compositions disclosed in Gaul *et al.* appear to be premised on the presence of an ester. Gaul *et al.* at col. 3, lines 25-26 (“In order to form the composition of the present invention, the lactone is mixed with at least one ester.”). *See also* col. 2, lines 60-63. That is, Gaul *et al.* appears to disclose compositions that include both lactones and esters.

Given that claim 62 uses the transitional phrase “consisting of” and that the claimed composition does not recite an ester, it follows that claim 62 is novel over Gaul *et al.*

Additionally, the combined amounts of components A (more than 50% by weight) and B (1 to 10% by weight) in the claimed cleansing solution does not appear to be disclosed or suggested in Gaul *et al.* An explanation of this can be found in the above section.

For at least these reasons, Applicant respectively submits that Gaul *et al.* fails to disclose every aspect of claim 62. Therefore, claim 62 is not anticipated by the cited reference.

E. The Obviousness Rejection Is Overcome

Original claims 2-3 are rejected under 35 U.S.C. § 103(a) as being rendered obvious by Gaul *et al.* in view of GB 2 172 304 (referred to as GB'304). Given that these claims are cancelled, the obviousness rejection is moot. However, Applicant provides the following comments which confirm that independent claims 26 and 62 are not rendered obvious over the cited references.

First, the arguments made above equally apply here. That is, the primary reference, Gaul *et al.*, fails to disclose or suggest Applicant's claimed component having the claimed structures. GB'304 does not supplement the deficiencies of Gaul *et al.* Indeed, GB'304 does not appear to even envisage the use of a surfactant, much less Applicant's claimed component B surfactant. Therefore, claim 26 is not rendered obvious by the cited references. *See In re Royka*, 490 F.2d 981, 985 (CCPA) (obviousness requires a suggestion of all limitations in a claim).

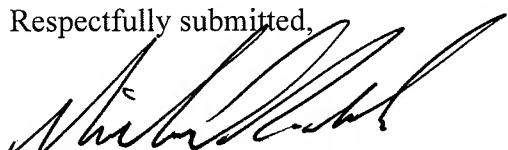
Second, and as discussed in the above section, claim 62 utilizes the "consisting of" phrase. An ester is not claimed in claim 62. By comparison, the compositions in Gaul *et al.* all appear to require the presence of an ester. Gaul *et al.* at col. 3, lines 25-26 ("In order to form the composition of the present invention, the lactone is mixed with at least one ester."). Further, the teachings of GB'304 do not suggest removing the ester from the Gaul *et al.* composition. If anything, removal of the ester from the Gaul *et al.* composition would likely lead to a composition that does not work for its intended purpose. *See MPEP § 2143.01[V]* ("If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification."). Therefore, the combination of Gaul *et al.* with GB'304 does not render Applicant's cleansing composition of claim 62 obvious, as there is no "apparent reason" to

remove the ester from the Gaul *et al.* composition. See *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. slip op. at 14-15 (2007).

F. Conclusion

Applicant believes that the present document is a full and complete response to the Office Action mailed March 17, 2008. The present case is in condition for allowance and such favorable action is requested. The Examiner is invited to contact the undersigned Attorney at (512) 536-3020 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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APPENDIX A
(Clean Copy of Abstract)